

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: David Addaman)
Map 37, Control Map 37, Parcel 31.00) Sequatchie County
Residential Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$90,000 | \$ -0- | \$90,000 | \$22,500 |

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on December 19, 2005 in Dunlap, Tennessee. In attendance at the hearing were David Addaman, the appellant, Sequatchie County Property Assessor, James Condra, and Glenn Bickford and Danny Taylor of the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 300 ' x 240 ' lot located on Cane Creek Road in the Dunaway Subdivision in Sequatchie County, Tennessee. Subject lot is part of a 5300[±] acre development located in Grundy and Sequatchie Counties known as the Dunaway Hunting and Fishing Club.

The taxpayer contended that subject lot should be valued at \$45,500. In support of this position, the taxpayer argued that on August 9, 2004 he purchased subject lot for \$45,500 and a separate club membership for \$47,500. According to Mr. Addaman, the club membership includes a 1/40th ownership interest in 5,300 acres of separately assessed common area. Mr. Addaman stated that one cannot purchase a club membership without owning a lot, but one can purchase just a lot. Thus, a club membership is necessary in order to utilize the common area and have an ownership interest in that property.

The taxpayer testified that subject lot had been for sale for approximately five years before he purchased it. Mr. Addaman stated that he and the seller, RE Services, LP, were unrelated parties with no prior relationship.

In order to substantiate what was paid for the lot versus the club membership the taxpayer placed three documents in the record. First, a copy of the settlement statement was appended to the appeal form. The settlement statement indicates the seller was paid \$44,495.14 for the lot and \$47,500 was disbursed to the Dunaway Hunting and Fishing Club for the membership. Second, a copy of the warranty deed was introduced into evidence

(exhibit 1) and reflects a sworn consideration of \$45,500 for the lot. Third, the taxpayer introduced into evidence a copy of the Commitment for Title Insurance in the amount of \$45,500 issued by Commonwealth Land Title Insurance Company.

The assessor contended that subject lot should be valued at \$90,000. In support of this position, the assessor maintained that comparable sales and listings support the current appraisal of subject lot. The assessor placed primary emphasis on the taxpayer's \$93,000 contract sales price. In addition, the assessor relied on the January 20, 2005 sale of a lot for \$125,000 and the June 8, 2005 sale of a lot for \$67,500 "for support only." See collective exhibit 4. The assessor asserted that all three transactions support sales prices of \$94,000 after adjusting for time and memberships. The assessor's exhibit also included copies of listings of lots for anywhere from \$99,900 to \$200,000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

Since the taxpayer is appealing from the determination of the Sequatchie County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

After having reviewed all the evidence in the case, the administrative judge finds that the subject lot should be valued at \$45,500 as contended by the taxpayer. For the reasons discussed below, the administrative judge finds that the taxpayer established a prima facie case which was not rebutted by the assessor.

The administrative judge finds that the appraisal of subject lot presents an unusually difficult assignment for two reasons. First, it is unclear in many, if not most, cases whether the recorded sales prices included the prices paid for both the lot and a membership.¹ Second, those familiar with the sales and development have provided the assessing authorities with seemingly conflicting and/or incomplete information over the years.²

The administrative judge finds the assessor's appraisal of subject lot perfectly reasonable for mass appraisal purposes based upon the information available at the time of the reappraisal program. Indeed, the assessing authorities commented at the hearing that this was the first time they had access to the type of documentation provided by Mr. Addaman.

The administrative judge finds that appraising subject lot is somewhat analogous to appraising a condominium. The administrative judge finds that the assessor must appraise

¹ Moreover, it appears that the price of a membership has varied over the years.

² The administrative judge is no way suggesting that this was done intentionally or with improper motives.

both the lot and the real property component attributable to the membership. Like a condominium, the assessor can theoretically value those interests separately or as one. In either case, however, the assessor must capture the full value of the two interests without double-assessing the common area.

The administrative judge finds that although both parties made reference to the fact the common area was separately assessed, the actual assessment was never introduced into evidence. The administrative judge finds that since those assessments are a matter of public record, it is appropriate to take official notice of them.

Pursuant to the administrative judge's request, the assessor filed by facsimile a copy of the property record cards corresponding to those assessments. The administrative judge's review of those cards indicates that a total of 2,596 acres in Sequatchie County has been appraised at \$2,516,900 or \$969.53 per acre. Based upon the limited evidence in the record, it appears that the assessor's appraisal of the common area captures the full value of the real property component of the memberships.³ The administrative judge finds that appraising subject lot at \$90,000 is equivalent to taxing the common area/real property component of the membership purchases twice.

The administrative judge wants to stress that the above findings are based upon an understandably sparse record. The administrative judge recognizes that additional evidence could possibly dictate a different outcome.

In concluding that subject lot should be appraised at \$45,500, the administrative judge has given less weight to the assessor's proof for several reasons. First, the administrative judge finds that the taxpayer's proof established that \$93,000 of his purchase price should not be attributed solely to the lot. Second, the other two sales "used for support only" occurred after the relevant assessment date of January 1, 2005 and are technically irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. Third, the administrative judge finds that both sales just addressed and the various listings cannot meaningfully be compared with the subject absent additional proof about the lots and whether the list prices include the present cost of a membership.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

³ The administrative judge finds that if the common area was inadequately assessed the appropriate solution would be to increase that appraisal rather than the appraisals of the individual lots.

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$45,500 | \$ -0- | \$45,500 | \$11,375 |

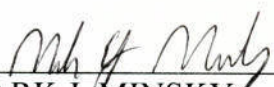
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 12th day of January, 2006.


 MARK J. MINSKY
 ADMINISTRATIVE JUDGE
 TENNESSEE DEPARTMENT OF STATE
 ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. David Addaman
 James Condra, Assessor of Property